

REMARKS

Claims 2-8 and 11 have been amended herein. Claims 14-17 have been added. Claims 1-17 are now pending in the Application. No new matter has been added. Entry of the amendment is respectfully requested. Reconsideration is respectfully requested. Support for the amendments is found in the original claims, Specification, and Drawings.

As suggested in the Action, objected claims 2, 6, and 7 have been rewritten in independent form as new claims 14, 15, and 16 respectively and therefore should be allowable. Dependent claims 2, 6, and 7 have been amended to depend from allowable claims 15, 16, and 14 respectively. Dependent claims 3, 4, 5 and 8 (previously depending from claim 2) have been amended to depend from allowable claim 14. Thus claims 2-16 should all be allowed and/or allowable.

In addition new claim 17 is a method claim which recites opening and dismounting steps which correspond to the closing and mounting steps of allowable claim 11. Therefore, new claim 17 should be allowable for at least the same reasons as allowed claim 11.

The Pending Claims Are Not Obvious in View of the Applied Art

Claim 1 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee, U.S.

Patent Application Publication No. 2003/0121973.

This rejection is respectfully traversed.

**The Applied Reference Does Not Disclose or Suggest
the Features and Relationships Recited in Applicants' Claims**

Before a claim may be rejected on the basis of obviousness pursuant to 35 U.S.C. § 103, the Patent Office bears the burden of establishing that all the recited features of the claim are known in the prior art. This is known as *prima facie* obviousness. To establish *prima facie* obviousness, it must be shown that all the elements and relationships recited in the claim are known in the prior art. If the Office does not produce a *prima facie* case, then the Applicants are under no obligation to submit evidence of nonobviousness. MPEP § 2142.

The teaching, suggestion, or motivation to combine the features in prior art references must be clearly and particularly identified in such prior art to support a rejection on the basis of obviousness. It is not sufficient to offer a broad range of sources and make conclusory statements. *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).

Even if all of the features recited in the claim are known in the prior art, it is still not proper to reject a claim on the basis of obviousness unless there is a specific teaching, suggestion, or motivation in the prior art to produce the claimed combination. *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1568, 1 USPQ2d 1593 (Fed. Cir. 1987). *In re Newell*, 891 F.2d 899, 901, 902, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989).

The evidence of record must teach or suggest the recited features. An assertion of basic knowledge and common sense not based on any evidence in the record lacks substantial evidence support. *In re Zurko*, 258 F.3d 1379, 59 USPQ2d 1693 (Fed. Cir. 2001).

It is respectfully submitted that the Action does not meet these burdens.

**The Pending Claims
Are Not Obvious Over Lee**

Claim 1

Claim 1 is an independent claim directed to a cash dispensing automated banking machine. The machine comprises the separately recited elements of a cash dispenser, a frame, at least one side panel, at least one top panel, and at least one door. The Action points out that Lee shows a curved door (20). The Action also acknowledges that Lee does not disclose specifically that the door is in connection with a frame. In addition, the Action asserts that the frame is interpreted as being the housing of Lee and that it would have been obvious to a person of ordinary skill in the art at the time of the invention to operably connect the door to the housing of Lee in order to assure a secure inner enclosure to guard against tampering and theft.

However, whether or not it would be obvious to operably connect the curved door (20) of Lee to a housing of an ATM, Lee does not disclose or suggest each of the features recited in claim 1. For example, the Action appears to regard the curved door (20) as corresponding to the recited element of a top panel. However, claim 1 separately recites both:

- at least one door in operative connection with the frame; and
- at least one top panel slidably connectable with the frame.

Lee does not disclose or suggest an automated banking machine which includes both a door and a top panel. Thus, the Office has not established *prima facie* obviousness with respect to claim 1.

In addition claim 1 recites other features and relationships which are not disclosed or suggested in Lee. For example, nowhere does Lee disclose or suggest "when the door is in the closed position, the door is operative to block the top panel from sliding out of connection with

the frame." In addition, nowhere does Lee disclose or suggest "when the door is in the open position, the top panel is operative to slide out of connection with the frame." Nowhere does Lee disclose or suggest that its curved door (20) in a closed position is operative to block a top panel from sliding out of connection with a frame.

Also, in addition to not disclosing or suggesting the recited elements of a top panel and a door, Lee also does not disclose or suggest the recited element of "at least one side panel slidably connectable with the frame." Further, Lee does not disclose or suggest "when the top panel is in operative connection with the frame, the top panel is operative to block the at least one side panel from sliding out of connection with the frame." In addition Lee does not disclose or suggest "when the top panel is out of connection with the frame, the at least one side panel is operative to slide out of connection with the frame." Nowhere does Lee disclose both at least one side panel and at least one top panel which are in slidable connection with a frame of an automated banking machine. Further nowhere does Lee disclose or suggest a top panel that when connected to the frame of the machine is operative to block at least one side panel from sliding out of connection with the frame.

Claim 1 recites an automated banking machine in which a door placed in a closed position is operative to prevent top and side panels of the machine from being removed from a frame of the machine. Nowhere does Lee disclose or suggest that its curved door (20) provides such features.

The applied reference does not disclose or suggest each of the features and relationships recited in claim 1 and the Office has not established *prima facie* obviousness. Also, as nothing in the cited art discloses or suggests the features and relationships that are specifically recited in the

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claim, and because there is no prior art teaching, suggestion or motivation cited for combining or modifying features of the cited reference so as to produce Applicants' invention, it is respectfully submitted that claim one is allowable for these reasons. Therefore, it is respectfully submitted that the 35 U.S.C. § 103(a) rejection should be withdrawn.

Additional Claim Fees

Please charge the fees associated with prosecution of three additional independent claims in excess of three (\$600) and any other fee due, to Deposit Account No. 09-0428 of Diebold self-service Systems.

Conclusion

The indication of allowed and allowable claims is greatly appreciated. Each of Applicants' pending claims specifically recites features and relationships that are neither disclosed nor suggested in any of the applied art. Furthermore, the applied art is devoid of any such teaching, suggestion, or motivation for combining features of the applied art so as to produce Applicants' invention. Allowance of all of Applicants' pending claims is therefore respectfully requested.

The undersigned will be happy to discuss any aspect of the Application by telephone at the Examiner's convenience.

Respectfully submitted,



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